

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

MATTHEW T. SHAFER, SHERI  
HAUGABOOK, PETER HEIDT, JEFFREY  
SHOVER, MACE TAMSE, GEORGE  
LIVANOS, MARK LOFTUS, JEFFREY  
SAMSEN, JEFFREY SHERESKY, STEVE  
SHERESKY, STEVE NADLER, and SANDY  
JUKEL, on behalf of themselves and all others  
similarly situated,

Plaintiffs,

-against-

MORGAN STANLEY, MORGAN STANLEY  
SMITH BARNEY LLC, MORGAN STANLEY  
COMPENSATION MANAGEMENT  
DEVELOPMENT AND SUCCESSION  
COMMITTEE, and John/Jane Does 1-20,

Defendants.

Civil Action No. 1:20-cv-11047-PGG

**NOTICE OF MOTION FOR  
RECONSIDERATION OR  
CLARIFICATION**

**PLEASE TAKE NOTICE** that upon the accompanying Memorandum of Law in support of this motion, dated December 5, 2023, and all prior proceedings in this action, Defendants Morgan Stanley, Morgan Stanley Smith Barney LLC, and the Morgan Stanley Compensation Management Development and Succession Committee will move this Court, before the Honorable Paul G. Gardephe, at the Thurgood Marshall United States Courthouse located at 40 Foley Square, Courtroom 705, New York, New York, at a date and time to be set by the Court, for an Order pursuant to Local Civil Rule 6.3, granting reconsideration and/or clarification of the Court's Opinion and Order dated November 21, 2023 (ECF No. 86), and, upon granting reconsideration and/or clarification, modifying the Court's opinion to clarify that the Court has decided only the arbitrability issue presented by the motion to compel and that the

question whether ERISA applies to Morgan Stanley's deferred compensation program can and must be decided by the arbitration panel.

Dated: Washington, D.C.

December 5, 2023

Respectfully submitted,

O'MELVENY & MYERS LLP

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Morgan Stanley Smith Barney LLC, and  
Morgan Stanley Compensation  
Management Development and  
Succession Committee*